

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 30.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.12001 of 2019  
and  
Crl.M.P.Nos.6218 and 6219 of 2019

1.V.Varadhan  
2.L.Amutha  
3.P.Dhanasekaran  
4.V.Bharathi

... Petitioners

Vs.

1.J.Nadhiya

2.State by Inspector of Police,  
J-10, Semmencherry Police Station,  
Chennai - 600119.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records relating to CC.No.408 of 2018 in (Crime No.313 of 2018) dated 26.06.2018 on the file of Judicial Magistrate, Alandur in Crime No.313 of 2018 on the file of J-10 Semmancherry Police Station, Chennai - 600 119 and quash the same.

For Petitioners : Mr.Pon Pandian P.

For Respondent : Mr.M.Mohamed Riyaz  
Addl. Public Prosecutor for R2

ORDER

The Criminal Original Petition has been filed by the petitioner under Section 482 Cr.P.C. to call for the records relating to CC.No.408 of 2018 in (Crime No.313 of 2018) dated 26.06.2018 on the file of Judicial Magistrate, Alandur in Crime No.313 of 2018 on the file of J-10 Semmancherry Police Station, Chennai - 600 119 and quash the same.

2.The learned counsel for the petitioner would submit that the defacto complainant kicked at the stomach of Accused No.4 being a pregnant lady without any sympathy, resulting the child died at the time of delivery. The defacto complainant was cruel, selfish and greedy to harass the petitioners herein with the sole intention of grabbing the small piece of land which

belongs to the petitioners. The defacto complainant in order to take revenge and due to prior enmity implicated the petitioner in this crime. Hence, the petition.

3. Heard the learned counsel for the petitioners as well as the learned Additional Public Prosecutor.

4. It is also relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in CrI.A.No.579 of 2019 dated 02.04.2019 in the case of Devendra Prasad Singh Vs. State of Bihar & Anr., as follows:-

" 12. So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and, therefore, there was no prima facie case made out against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.

13. In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.

5. Therefore, all the points raised before this Court shall be considered only at the time of trial. Hence, this Court is not inclined to quash the proceedings in C.C.No.408 of 2018 pending on the file of the learned Judicial Magistrate, Alandur. However, considering the facts and circumstances of the case, the Trial Court is hereby directed to complete the trial within a period of six months from the date of receipt of a copy of this order.

6. However, considering the age of the 1<sup>st</sup> petitioner, the personal appearance of the 1<sup>st</sup> petitioner is dispensed with and he shall be represented by a counsel after filing appropriate application. The petitioner shall present before the Court at the time of furnishing of copies, framing of charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment. The petitioner is also granted liberty to raise all

the grounds before the Trial Court.

7. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are also closed.

Sd/-  
Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,  
J-10, Semmencherry Police Station,  
Chennai - 600 119.

2. The Public Prosecutor  
High Court of Madras.

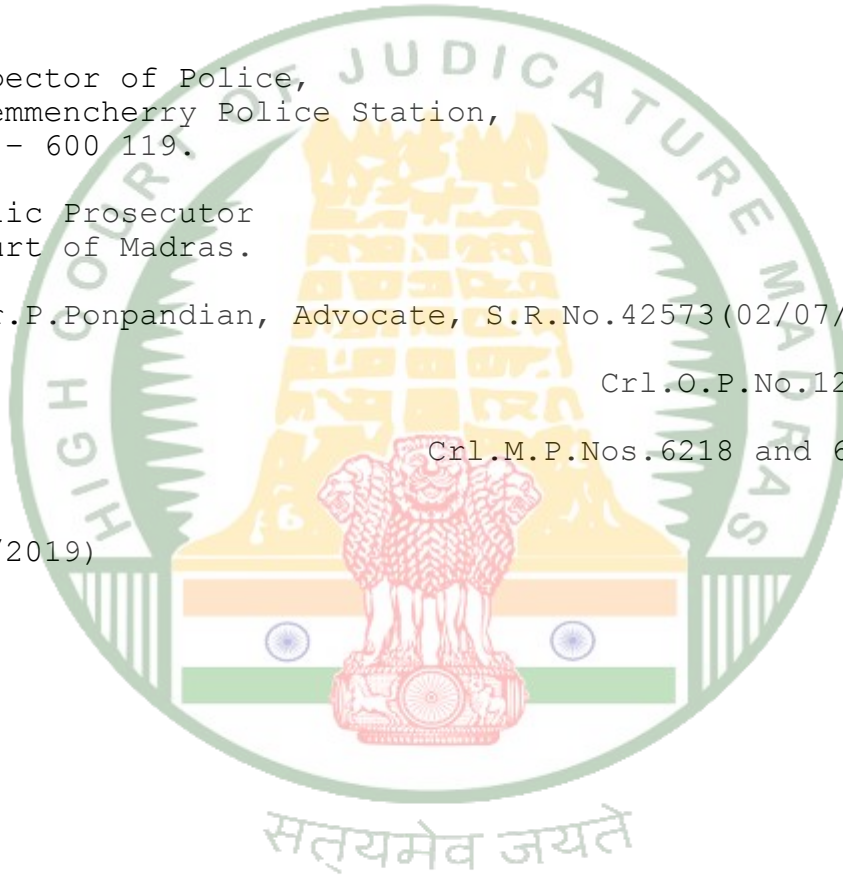
+1cc to Mr. P. Ponpandian, Advocate, S.R.No.42573 (02/07/2019)

Crl.O.P.No.12001 of 2019  
and

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PA (CO)

RRS (20/06/2019)



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